

EXHIBIT 4

MAO DECLARATION ISO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

DOCUMENT SOUGHT TO BE SEALED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, JULIEANNA
MUNIZ, ELIZA CAMBA, SAL CATALDO,
EMIR GOENAGA, JULIAN SANTIAGO,
HAROLD NYANJOM, KELLIE NYANJOM,
AND SUSAN LYNN HARVEY,
INDIVIDUALLY AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED,
PLAINTIFFS,

vs.

NO. 3:20-CV-04688

GOOGLE LLC,
DEFENDANT.

_____ /

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

VIDEOTAPED DEPOSITION OF ERIC MIRAGLIA

VIA REMOTE COUNSEL VIDEOCONFERENCE

TUESDAY, OCTOBER 25, 2022

VOLUME I

STENOGRAPHICALLY REPORTED BY:

MEGAN F. ALVAREZ, RPR, CSR No. 12470

JOB NO. 5545552; PAGES 1 - 243

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Videotaped Videoconference Deposition of
ERIC MIRAGLIA, Volume I, taken on behalf of Plaintiffs,
VIA REMOTE COUNSEL. Deponent testifying from Durango,
Colorado, beginning at 9:02 a.m. and ending at 5:19 p.m.
Mountain Standard Time, on Tuesday, October 25, 2022,
before Megan F. Alvarez, RPR, Certified Shorthand
Reporter No. 12470.

1 APPEARANCES: (ALL PARTIES APPEARING VIA VIDEOCONFERENCE)

2
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1 APPEARANCES: (CONTINUED)

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3 FOR DEFENDANT GOOGLE:

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13 ALSO PRESENT:

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16 THE VIDEO OPERATOR:

17 SEAN GRANT, VERITEXT

18

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1 products. 11:07:43

2 Setting that aside, are you aware of any 11:07:44

3 Google controller feature that would prevent Google 11:07:46

4 from logging any information by any means relating 11:07:50

5 to a user's app activity? 11:07:53

6 MR. HUR: Objection. Vague. Incomplete 11:07:57

7 hypothetical. Lacks foundation. Calls for 11:07:57

8 speculation. Definitionally outside scope. 11:08:01

9 THE WITNESS: Alex, could you repeat 11:08:13

10 question? That had a bunch of layers to it that I 11:08:15

11 thought -- 11:08:15

12 BY MR. FRAWLEY: 11:08:16

13 Q. Yeah, of course. Yes, of course. So let 11:08:16

14 me just explain why I'm asking this new question. 11:08:21

15 So you testified a moment ago that you're: 11:08:24

16 "Not familiar with" -- "enough with how Analytics 11:08:28

17 works for the Firebase product to give you good 11:08:31

18 answers about how settings control that data." 11:08:35

19 Do you recall that testimony? 11:08:39

20 A. I do. 11:08:40

21 Q. So I'm just trying to ask at a more high 11:08:42

22 general level, not focusing only on Firebase or only 11:08:45

23 on Analytics, but whether you're aware of any Google 11:08:49

24 control that would just full stop Google from 11:08:53

25 collecting any data about a user's app activity. 11:08:56

1 MR. HUR: Objection. Foundation. Calls 11:09:00
2 for speculation. Vague. And definitionally outside 11:09:02
3 the scope of what's relevant in this case. 11:09:09
4 THE WITNESS: I'm not aware of any setting 11:09:19
5 that -- that's shaped exactly the way you described 11:09:21
6 it. 11:09:25
7 BY MR. FRAWLEY: 11:09:26
8 Q. Do you think there should be such a 11:09:27
9 setting? 11:09:29
10 MR. HUR: Same objection. 11:09:31
11 THE WITNESS: I think what I would say and 11:09:47
12 the way I would approach this -- this whole domain 11:09:49
13 is there should be a regime of settings that are 11:09:54
14 intelligible to users that allow them to control the 11:09:57
15 way their data is collected and used and -- and give 11:10:03
16 them transparency over what's going on. We work 11:10:11
17 really hard to provide that. 11:10:17
18 BY MR. FRAWLEY: 11:10:19
19 Q. Can you look at page -- in the same 11:10:22
20 document, the page that ends in 528? 11:10:27
21 A. I'm there. 11:10:40
22 Q. Okay. Okay. Do you see that first 11:10:43
23 bullet? 11:11:01
24 A. I do. 11:11:04
25 Q. And do you see where it says: "An 11:11:08

1 BY MR. FRAWLEY: 12:08:32

2 Q. Did you have any involvement in the 12:08:48

3 project in the Android Privacy Advisor projects? 12:08:50

4 MR. HUR: Objection. Vague. 12:08:55

5 THE WITNESS: I don't believe that I did. 12:09:09

6 In referencing the data of this thread, I apologize, 12:09:10

7 I don't think I did. 12:09:15

8 BY MR. FRAWLEY: 12:09:18

9 Q. Okay. I will introduce a new exhibit. 12:09:29

10 (Whereupon Exhibit 107 was marked for 12:09:33

11 identification.) 12:09:33

12 BY MR. FRAWLEY: 12:10:00

13 Q. All right. I just marked Exhibit 107. 12:10:01

14 Please let me know when you have Exhibit 107. 12:10:03

15 A. I have it open. I'll take a look at it. 12:10:18

16 (Witness reviewing document.) 12:12:45

17 THE WITNESS: Okay. Thank you for the 12:13:02

18 time. 12:13:03

19 BY MR. FRAWLEY: 12:13:03

20 Q. Of course. 12:13:04

21 Do you see how the first e-mail is from 12:13:05

22 Giles Hogben to Dave Kleidermacher, and then there's 12:13:08

23 a couple people copied, including you? 12:13:12

24 A. I do. 12:13:15

25 Q. Do you know who is Giles Hogben? 12:13:16

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1 A. I do. 12:13:22

2 Q. Who's that? 12:13:23

3 A. I'm not positive what his role was in -- 12:13:28

4 at the date of this e-mail. Today, he, I believe, 12:13:31

5 leads the privacy and security team in Android. 12:13:33

6 Q. And same question for Dave Kleidermacher. 12:13:38

7 A. Dave Kleidermacher is an engineering VP in 12:13:48

8 Android. 12:13:52

9 Q. Can you look at the second e-mail in the 12:13:53

10 thread? And it's an e-mail on Tuesday, November 27, 12:13:55

11 from Dave Kleidermacher. 12:13:58

12 A. Yes. 12:14:00

13 Q. And do you see the third sentence where he 12:14:02

14 writes: "But I agree with Eric's sentiment during 12:14:07

15 the meeting that this would be a massive game 12:14:09

16 changer. If a user could flip the switch at the 12:14:12

17 device or account level and have confidence in not 12:14:14

18 having activity tracked in any app, it would 12:14:17

19 completely change the way privacy-conscious users 12:14:20

20 and influencers view Google and Android." 12:14:24

21 Do you see that portion that I just read? 12:14:28

22 A. I do. 12:14:31

23 Q. Now, where Dave said "Eric's sentiment," 12:14:36

24 do you know whether or not Eric is referring to you? 12:14:40

25 A. I believe that it's referring to me in 12:14:45

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1 could flip the switch at the device or account 12:16:20

2 level"? You're referring to that sentence. 12:16:23

3 BY MR. FRAWLEY: 12:16:24

4 Q. Yes. My only thing that I'd clarify is 12:16:24

5 "Dave," not "Alex." I think you said "Alex." 12:16:27

6 A. Oh, gosh. I apologize. 12:16:31

7 Q. No problem. 12:16:33

8 A. Yes, I understand the distinction between 12:16:38

9 a device setting and account setting. 12:16:39

10 Q. Can you explain the distinction? 12:16:43

11 A. At a high level, device level settings 12:16:50

12 control characteristics of a -- of a device and how 12:16:53

13 it operates. Whereas an account level setting 12:16:57

14 controls things that are associated with a 12:17:01

15 particular signed-in user identity. 12:17:07

16 Q. And did you -- and I'm sorry if I'm wrong. 12:17:15

17 Did you testify earlier that WAA is an 12:17:17

18 account level setting; is that right? 12:17:20

19 A. That's correct. WAA is an account level 12:17:25

20 setting. 12:17:27

21 Q. Now, does Google offer any switch at the 12:17:35

22 device or account level where a user would have 12:17:38

23 confidence in not having activity tracked in any 12:17:42

24 app? 12:17:45

25 MR. HUR: Objection. Vague. Foundation. 12:17:46

| | | |
|----|--|----------|
| 1 | Speculation. | 12:17:49 |
| 2 | THE WITNESS: I'm not aware of any setting | 12:17:55 |
| 3 | that's scoped to what you just said. | 12:17:56 |
| 4 | BY MR. FRAWLEY: | 12:17:59 |
| 5 | Q. But you think there should be such a | 12:18:01 |
| 6 | setting; is that right? | 12:18:03 |
| 7 | MR. HUR: Objection. Vague. | 12:18:06 |
| 8 | THE WITNESS: One thing I would note is | 12:18:21 |
| 9 | that what we're seeing here isn't my language. It's | 12:18:23 |
| 10 | Dave's language describing something that -- that we | 12:18:27 |
| 11 | may have talked about at a meeting. I don't | 12:18:31 |
| 12 | remember making an assertion shaped in the -- in the | 12:18:36 |
| 13 | phraseology that he's using here. | 12:18:38 |
| 14 | BY MR. FRAWLEY: | 12:18:45 |
| 15 | Q. So fair to say that Dave, in this e-mail, | 12:18:46 |
| 16 | is misrepresenting something you said? | 12:18:48 |
| 17 | MR. HUR: Objection. Misstates prior | 12:18:56 |
| 18 | testimony. | 12:19:03 |
| 19 | THE WITNESS: I think the way I would say | 12:19:03 |
| 20 | it is that Dave is putting something into his own | 12:19:04 |
| 21 | words that ends up being something that I wouldn't | 12:19:08 |
| 22 | have -- where I wouldn't have used those words. | 12:19:10 |
| 23 | BY MR. FRAWLEY: | 12:19:12 |
| 24 | Q. Now, do you recall -- well, you see your | 12:19:14 |
| 25 | name is copied at the top, right? On the first | 12:19:16 |

CERTIFICATE OF REPORTER

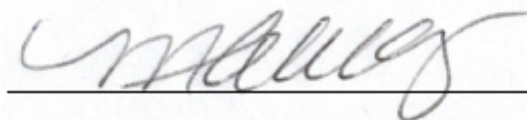
I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were administered an oath; that a verbatim record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; and that the foregoing is an accurate transcription thereof.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [X] was [] was not requested.

I further certify that I am neither financially interested in the action, nor a relative or employee of any attorney of any party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name this 8th day of November, 2022.

A handwritten signature in cursive script, appearing to read 'M. Alvarez', is written over a horizontal line.

MEGAN F. ALVAREZ, CSR No. 12470, RPR